

SB0190S01 compared with SB0190

~~{deleted text}~~ shows text that was in SB0190 but was deleted in SB0190S01.

Inserted text shows text that was not in SB0190 but was inserted into SB0190S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

RENTAL CAR AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions regarding vehicle rentals and establishes requirements for private vehicle rentals.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes requirements for a vehicle rental transaction;
- ▶ establishes operational requirements for a private vehicle rental program provider (program provider), including requirements:
 - for motor vehicles for which the program provider may facilitate rentals;
 - regarding equipment installation, operation, and maintenance;
 - regarding the keeping of records; and

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- regarding disclosures;
- ▶ requires a concession agreement for certain activity at an airport;
- ▶ reduces the maximum amount of certain taxes that may be imposed on a private vehicle rental;
- ▶ addresses liability for loss during a private vehicle rental;
- ▶ provides insurance requirements for a private vehicle rental program provider;
- ▶ prohibits an insurer from cancelling or failing to renew a policy solely based on participation in a private vehicle rental, except under certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-21-303, as last amended by Laws of Utah 2015, Chapter 385

~~{ 31A-21-311, as last amended by Laws of Utah 2003, Chapter 252~~

{ 41-1a-214, as last amended by Laws of Utah 2018, Chapter 375

41-12a-303.2, as last amended by Laws of Utah 2018, Chapters 30 and 160

59-12-603, as last amended by Laws of Utah 2018, Chapters 258 and 312

59-12-1201, as last amended by Laws of Utah 2016, Chapters 184 and 291

ENACTS:

13-48a-101, Utah Code Annotated 1953

13-48a-102, Utah Code Annotated 1953

13-48a-201, Utah Code Annotated 1953

13-48b-101, Utah Code Annotated 1953

13-48b-102, Utah Code Annotated 1953

13-48b-201, Utah Code Annotated 1953

13-48b-202, Utah Code Annotated 1953

13-48b-203, Utah Code Annotated 1953

13-48b-204, Utah Code Annotated 1953

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13-48b-205, Utah Code Annotated 1953

13-48b-301, Utah Code Annotated 1953

13-48b-302, Utah Code Annotated 1953

13-48b-303, Utah Code Annotated 1953

13-48b-304, Utah Code Annotated 1953

13-48b-305, Utah Code Annotated 1953

13-48b-306, Utah Code Annotated 1953

31A-22-323, Utah Code Annotated 1953

31A-22-324, Utah Code Annotated 1953

~~{ 31A-22-325, Utah Code Annotated 1953~~

}

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-48a-101** is enacted to read:

CHAPTER 48a. MOTOR VEHICLE RENTAL ACT

Part 1. General Provisions

13-48a-101. Title.

This chapter is known as "Motor Vehicle Rental Act."

Section 2. Section **13-48a-102** is enacted to read:

13-48a-102. Definitions.

As used in this chapter:

(1) "Motor vehicle" means the same as that term is defined in Section 13-48b-102.

(2) (a) "Motor vehicle rental company" means the same as that term is defined in

Section 13-48-102.

(b) "Motor vehicle rental company" does not include a private vehicle rental owner who makes no more than three vehicles available for rent during a 12-month period through:

(i) a private vehicle rental program; or

(ii) any combination of private vehicle rental programs.

(3) "Private motor vehicle" means the same as that term is defined in Section 13-48b-102.

(4) "Private vehicle rental" means the same as that term is defined in Section 13-48b-102.

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(5) "Private vehicle rental owner" or "owner" means the same as that term is defined in Section 13-48b-102.

(6) "Private vehicle rental program" or "rental program" means the same as that term is defined in Section 13-48b-102.

(7) "Private vehicle rental program provider" or "provider" means the same as that term is defined in Section 13-48b-102.

(8) "Private vehicle renter" or "renter" means the same as that term is defined in Section 13-48b-102.

(9) "Vehicle rental transaction" means the transfer of possession of a motor vehicle:

(a) for consideration; and

(b) without the transfer of ownership of the motor vehicle.

Section 3. Section **13-48a-201** is enacted to read:

Part 2. Requirements for Vehicle Rental Transactions

13-48a-201. Transaction requirements.

(1) A vehicle rental transaction that a private vehicle rental program provider facilitates is subject to all statutory and regulatory obligations for a private passenger motor vehicle rental vehicle, transaction, or company, including compliance with:

(a) Title 13, Chapter 48, Motor Vehicle Rental Company Disclosure Act;

(b) Title 59, Chapter 12, ~~{Part 12, Motor Vehicle Rental}~~ Sales and Use Tax Act; and

(c) municipal, county, or local government regulation regarding a vehicle rental transaction at an airport.

(2) (a) Any disclosure that a motor vehicle rental company is required to provide, deliver, post, or otherwise make available is timely and effectively made when the motor vehicle rental company provides the notice or disclosure electronically:

(i) at or before the time required; or

(ii) included in a member or master agreement in effect at the time of rental.

(b) For the purposes of this chapter, a master or member agreement includes any service:

(i) a company offers that permits a customer to bypass a retail service location and obtain a product or service directly;

(ii) where the rental company does not require the renter to execute a rental agreement

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at the time of rental; or

(iii) where the renter does not receive the rental terms and conditions at the time of rental.

(3) (a) Electronic or written acceptance is a valid form of acceptance of any disclosure.

(b) Acceptance remains effective until the renter affirmatively withdraws the acceptance.

(4) A disclosure made in accordance with this chapter is exempt from any placement or stylistic display requirements, including location, font size, typeset, or other specifically stated description, if the disclosure is generally consistent in appearance with the entirety of the communication in which the disclosure is contained.

(5) A motor vehicle rental company meets all obligation to physically inspect and compare a renter's driver license, if:

(a) (i) the motor vehicle rental company facilitates the rental through digital, electronic, or other means that allow a customer to obtain possession of a vehicle without in-person contact with an agent or employee of the provider; or

(ii) the renter does not execute a rental contract at the time of rental; and

(b) (i) at the time a renter enrolls, or any time thereafter in a membership program, master agreement, or other means of establishing use of the provider's services, requires verification that the renter is a licensed driver; or

(ii) before to the renter takes possession of the rental vehicle, the provider requires documentation that verifies the renter's identity.

Section 4. Section **13-48b-101** is enacted to read:

CHAPTER 48b. PRIVATE VEHICLE RENTAL ACT

Part 1. General Provisions

13-48b-101. Title.

This chapter is known as "Private Vehicle Rental Act."

Section 5. Section **13-48b-102** is enacted to read:

13-48b-102. Definitions.

As used in this chapter:

(1) (a) "Authorized driver" means the renter of a private motor vehicle.

(b) "Authorized driver" includes any individual the program provider authorizes to

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drive the private motor vehicle in accordance with the program provider's rental agreement with the renter.

~~{~~ ~~(2) "Blanket insurance policy" means the same as that term is defined in Section 31A-1-301.~~

~~†~~ ~~(3)2~~ "Motor vehicle" means a motor vehicle as defined in Section 41-1a-102 that:

(a) has a gross weight rating of 10,000 pounds or less;

(b) is not used for the commercial delivery of goods or materials; and

(c) is not used for the commercial transportation of goods or materials.

~~(4)3~~ "Motor vehicle rental company" means the same as that term is defined in Section 13-48a-102.

~~(5)4~~ (a) "Private motor vehicle" means a motor vehicle:

(i) owned by and registered to an individual; and

(ii) insured under a personal motor vehicle liability insurance policy, in accordance with Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, insuring:

(A) the individual described in Subsection ~~(5)4~~(a)(i); or

(B) the individual described in Subsection ~~(5)4~~(a)(i) and individuals residing in the same household as the individual.

(b) "Private motor vehicle" does not include a motor vehicle with fewer than four wheels.

~~(6)5~~ "Private vehicle rental" means the use of a private motor vehicle:

(a) by a person other than the vehicle's registered owner; and

(b) in connection with a private vehicle rental program.

~~(7)6~~ "Private vehicle rental owner" or "owner" means the registered owner of a private motor vehicle available for rent through a private vehicle rental program.

~~(8)7~~ "Private vehicle rental program" or "rental program" means any means, digital or otherwise, through which a private vehicle rental program provider facilitates a private vehicle rental.

~~(9)8~~ "Private vehicle rental program provider" or "program provider" means the person who facilitates vehicle rental transactions through a private vehicle rental program.

~~(10)9~~ "Private vehicle renter" or "renter" means a person, other than the private

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vehicle rental owner, who rents the owner's vehicle through a private vehicle rental program.

(~~111~~10) "Program rental period" or "rental period" means the period of time:

(a) beginning when a renter or the program provider takes possession and control of a vehicle available for private vehicle rental; and

(b) ending when:

(i) the vehicle is:

(A) retrieved by the owner or owner's designee;

(B) returned to a location agreed upon by the owner or the renter; or

(C) returned to a location designation by the program provider; and

(ii) (A) the time period established through the program expires;

(B) the renter verifiably communicates to the program provider or owner that the renter deems the rental period terminated; or

(C) the owner or the program provider takes possession and control of the vehicle.

(~~112~~11) "Rental agreement" means any written agreement stating the terms and conditions governing the use of a private motor vehicle a program provider makes available for use through a rental program.

(~~113~~12) "Vehicle rental transaction" means the transfer of possession of a motor vehicle:

(a) for consideration; and

(b) without the transfer of ownership of the motor vehicle.

Section 6. Section **13-48b-201** is enacted to read:

Part 2. Requirements for Private Vehicle Rental

13-48b-201. Facilitating a motor vehicle rental.

For each motor vehicle for which a program provider facilitates a rental, the program provider shall:

(1) require that the motor vehicle is a private motor vehicle;

(2) provide the motor vehicle owner with suitable proof of compliance with the insurance requirements of this chapter; and

(3) require that the motor vehicle comply with the minimum financial responsibility requirements of the state in which the vehicle is registered.

Section 7. Section **13-48b-202** is enacted to read:

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13-48b-202. Equipment -- Indemnification.

A program provider shall:

(1) to the extent necessary for the motor vehicle to be used in a private vehicle rental, facilitate the installation, operation, and maintenance of the program provider's own signage and computer hardware and software in the motor vehicle; and

(2) indemnify and hold harmless the owner for:

(a) the cost of damage to, or theft of, equipment the program provider installs, operates, and maintains under Subsection (1); and

(b) any damage the installation, operation, or maintenance of equipment described in Subsection (1) causes to the motor vehicle.

Section 8. Section **13-48b-203** is enacted to read:

13-48b-203. Records.

A program provider shall collect, maintain, and make available, at the cost of the program provider, to any government agency as required by law:

(1) information regarding an owner's primary motor vehicle liability insurer;

(2) information regarding a renter's primary motor vehicle, excess, or umbrella insurer;

and

(3) the following information pertaining to an incident that occurs during a rental period:

(a) verifiable records of the rental period for the private motor vehicle enrolled in the rental program that was involved in the incident; ~~and~~

(b) to the extent electronic equipment for monitoring the following information is installed in the motor vehicle, verifiable electronic records of:

(i) the time in relation to initial and final locations; and

(ii) miles driven ~~{; and}~~.

~~{ (c) if an insurance claim is with a blanket insurer, information relevant to the claim, including a program provider payment related to an accident, any damage, or an injury.~~

~~‡~~ Section 9. Section **13-48b-204** is enacted to read:

13-48b-204. Disclosure requirements.

(1) Before a private motor vehicle is made available for use through a rental program, a program provider shall disclose to the owner:

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~~{ (a) a description of the insurance coverage the program provider provides under Part 3, Insurance;~~

~~{ (b)a) that during a private vehicle rental, an owner's personal motor vehicle liability insurer may exclude any and all coverage afforded to the personal motor vehicle liability insurer's policy;~~

~~{ (c)b) that an owner's personal motor vehicle liability insurer has the right to notify an insured that the personal motor vehicle liability insurer does not have a duty to defend or indemnify a person for liability for loss that occurs during a private vehicle rental;~~

~~{ (d) that the program provider's blanket policy may not provide coverage outside of the private vehicle rental;~~

~~{ (c)c) that, if the private motor vehicle the owner makes available for private vehicle rental has a lien against the private motor vehicle, the owner is required to notify the lienholder that the program provider is using the private motor vehicle to provide private vehicle rentals; and~~

~~{ (d)d) that using a private motor vehicle against which there is a lien in a private vehicle rental may violate the rental vehicle owner's contract with the lienholder.~~

~~(2) Before a renter's first operation of a private motor vehicle through a rental program, the program provider shall disclose to the renter the information described in Subsections (1)(b) through (d).~~

~~Section 10}a) and (b).~~

Section 10. Section 13-48b-205 is enacted to read:

13-48b-205. Airport concession agreement requirement.

A program provider that facilitates a private vehicle rental at, or allows a program rental period to begin or end at, an airport shall have a concession agreement with the airport.

Section 11. Section 13-48b-301 is enacted to read:

Part 3. Insurance

13-48b-301. Insurance {requirements}coverage during program rental period.

(1) (a) A program provider shall {maintain a blanket}assume liability of a private vehicle rental owner for any bodily injury or property damage to a third party or uninsured or underinsured motorist or personal injury protection loss during the program rental period in an amount stated in the rental agreement with the owner.

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(b) An amount stated in a rental agreement as described in Subsection (1)(a) shall be at least the extent required under:

(i) Sections 31A-22-306 through 31A-22-309 for personal injury protection;

(ii) Section 31A-22-305 for uninsured motorist coverage; and

(iii) Section 31A-22-305.3 for underinsured motorist coverage.

(2) A program provider shall ensure that, during a program rental period, the private vehicle rental owner and the authorized driver are insured under a motor vehicle liability insurance policy that, during a rental period:

~~— (1) covers, on a primary basis:~~

~~— (a):~~

(a) recognizes that the motor vehicle insured under the policy is made available and used through a private vehicle rental program; and

(b) provides insurance coverage at least to the extent required under:

(i) Sections 31A-22-306 through 31A-22-309 for personal injury protection;

(ii) Section 31A-22-305 for uninsured motorist coverage; and

(iii) Section 31A-22-305.3 for underinsured motorist coverage.

(3) The insurance described under Subsection (2) may be satisfied by motor vehicle liability insurance maintained by:

(a) the private vehicle rental owner;

(b) an authorized driver;

~~(b) an occupant of the private motor vehicle; and~~

~~— (c) the use of a private motor vehicle while in the custody of the program provider;~~

~~including use by an agent, employee, director, officer, or assignee of; c) the program provider;~~

~~{and~~

~~— (2) includes:~~

~~— (a) liability coverage for a minimum of \$1,000,000 per occurrence;~~

~~— (b) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;~~

~~— (c) uninsured motorist coverage in accordance with Section 31A-22-305; and~~

~~— (d) underinsured motorist coverage in accordance with Section 31A-22-305.3;~~

~~— Section 11}or~~

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(d) a combination of Subsection (3)(a) through (c).

Section 12. Section **13-48b-302** is enacted to read:

13-48b-302. ~~{Coordination}~~ Coordination of insurance coverage ~~{=~~

Notification}.

(1) ~~{A blanket}~~ The insurance policy described in ~~{Section}~~ Subsection 13-48b-301 (2) is ~~{:~~

~~—— (a) }~~ primary ~~{with respect to any other insurance available to the owner; and~~

~~—— (b) secondary with respect to any other insurance available to the renter, authorized driver, or occupant of the private motor vehicle}~~ during each program rental period.

(2) A program provider shall ~~{notify the owner's personal motor vehicle liability insurer of a dispute}~~ assume primary liability for a claim if:

(a) the program provider is, in whole or in part, providing the insurance required under Subsection 13-48b-301(2);

(b) a dispute exists as to who was in control of the private motor vehicle at the time of the loss; and

(c) the program provider does not have available, did not retain, or fails to provide the information required under Section 13-48b-303.

Section 13. Section **13-48b-303** is enacted to read:

13-48b-303. Recordkeeping.

(1) A program provider shall collect and verify records related to each private vehicle rental, including:

(a) the time and date of the beginning and end of the program rental period;

(b) fees the renter paid for the private vehicle rental; and

(c) revenues the owner received for the private vehicle rental.

(2) A program provider shall provide the information described in Subsection (1) upon request to the owner, the owner's insurer, or the authorized driver's insurer to facilitate a claim coverage investigation.

(3) A program provider shall retain the information described in Subsection (1) at least until the applicable personal injury statute of limitations expires.

Section 14. Section **13-48b-304** is enacted to read:

13-48b-304. Insurable interest.

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(1) Notwithstanding any other provision of law, a program provider has an insurable interest in a private motor vehicle during the program rental period.

(2) Nothing in this section requires or creates liability on a program provider to maintain coverage required under this part.

Section 15. Section 13-48b-305 is enacted to read:

13-48b-305. Vicarious liability -- Exemption.

A program provider and a private vehicle rental owner are exempt from vicarious liability:

(1) in accordance with 49 U.S.C. Sec. 30106; and

(2) under any state or local law that imposes liability solely based on vehicle ownership.

Section 16. Section 13-48b-306 is enacted to read:

13-48b-306. Application.

Nothing in this chapter or Section 31A-22-325 ~~{(3)}~~ within 10 business days after the day on which:

(1) limits the liability of a program provider for any act or omission of the program provider ~~{becomes aware of the dispute.~~

~~Section 12}~~ that results in injury to any person as a result of the use of a private motor vehicle through a rental program; or

(2) limits the ability of the program provider to, by contract, seek indemnification from an owner or authorized driver for economic loss sustained by the rental program resulting from a breach of the terms and conditions of the rental agreement.

Section 17. Section 31A-21-303 is amended to read:

31A-21-303. Cancellation, issuance, renewal.

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:

(i) except for:

(A) life insurance;

(B) accident and health insurance; and

(C) annuities; and

(ii) if the policies of insurance are issued on forms that are subject to filing under

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Subsection 31A-21-201(1).

(b) A policy may provide terms more favorable to insureds than this section requires.

(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination.

(d) The rights provided by this section are in addition to and do not prejudice any other rights the insureds may have at common law or under other statutes.

(2) (a) As used in this Subsection (2), "grounds" means:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional return of premium; or

(v) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:

(A) the named insured; or

(B) any other person who customarily drives the motor vehicle.

(b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:

(A) the expiration of the agreed term; or

(B) one year from the effective date of the policy or renewal.

(ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the insurer for:

(A) nonpayment of a premium when due; or

(B) subject to Subsection (2)(f), on grounds defined in Subsection (2)(a).

(c) (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.

(ii) Cancellation for nonpayment of premium is effective no sooner than 10 days after

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delivery or first class mailing of a written notice to the policyholder.

(d) (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.

(ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.

(e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days when the written notice of cancellation is mailed or delivered.

(ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the delivery to the insured of a written notice of cancellation.

(iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.

(iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the procedures described in Subsection (7).

(f) In the case of motor vehicle insurance, an insurance policy may not be canceled solely based on the participation of a motor vehicle that is covered by the motor vehicle insurance policy in a private vehicle rental, as defined in Section 13-48b-102, unless:

(i) the motor vehicle owner ~~{, in combination with all individuals residing in the same household as the motor vehicle owner, uses}~~ ~~fails during the application process to provide complete and accurate information about the use of a motor vehicle through~~ a private vehicle rental program ~~{,}~~ as defined in Section 13-48b-102 ~~{, or combination of rental programs, to rent or make available for rent, more than four motor vehicles at one time; or~~

~~— (ii) (A); or~~

(ii) the motor vehicle ~~{is enrolled in a usage-based insurance}~~ ~~owner exceeds the limit established in the insurance policy of the number of motor vehicles the owner is permitted to enroll in a private vehicle rental~~ program as defined in ~~{Subsection (2)(g); and~~

~~— (B) immediately after cancellation of the policy the insurer offers the insured a new policy with the same coverages and pre-existing rates, but without enrollment in the usage-based insurance program as defined in Subsection (2)(g);~~

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~~(g) As used in Subsections (2)(f) and (5)(a)(iv), "usage-based insurance program" means motor vehicle insurance the terms of which permit the insurer to:~~

~~(i) electronically monitor acceleration, braking, miles driven, and other indicia of driving behavior; and~~

~~(ii) determine costs based on the behavior observed under Subsection (2)(g)(i);~~ Section 13-48b-102.

(3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days prior to any anniversary date.

(4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:

(i) on the terms then being applied by the insurer to similar risks; and

(ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or

(B) for one year if the agreed term is longer than one year.

(b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:

(i) at least 30 days before the policy expiration or anniversary date a notice of intention not to renew the policy beyond the agreed expiration or anniversary date is delivered or sent by first-class mail by the insurer to the policyholder at the policyholder's last-known address;

(ii) not more than 45 nor less than 14 days before the due date of the renewal premium, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:

(A) the renewal premium;

(B) how the renewal premium may be paid, including the due date for payment of the renewal premium;

(C) that failure to pay the renewal premium extinguishes the policyholder's right to renewal; and

(D) subject to Subsection (4)(e), that the extinguishment of the right to renew for nonpayment of premium is effective no sooner than at least 10 days after delivery or first class mailing of a written notice to the policyholder that the policyholder has failed to pay the

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premium when due;

(iii) the policyholder has:

(A) accepted replacement coverage; or

(B) requested or agreed to nonrenewal; or

(iv) the policy is expressly designated as nonrenewable.

(c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:

(i) references a policy coverage; and

(ii) does not result in the insured requesting payment of a claim.

(d) Failure to renew under this Subsection (4) is subject to Subsection (5).

(e) (i) During the period that begins when the notice described in Subsection (4)(b)(ii)(D) is delivered or mailed and ends when the premium is paid, coverage exists and premiums are due.

(ii) If after receiving the notice required by Subsection (4)(b)(ii)(D) a policyholder fails to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is originally due.

(iii) Delivery of the notice required by Subsection (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.

(iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if it provides notice of the extinguishment of the right to renew for failure to pay premium at least 15 days, but no longer than 45 days, before the day the renewal payment is due.

(v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30 days or less.

(5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:

(a) in the case of a motor vehicle insurance policy:

(i) a claim from the insured that:

(A) results from an accident in which:

(I) the insured is not at fault; and

(II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years of age or older; and

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(B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;

(ii) a single traffic violation by an insured that:

(A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;

(B) is not in excess of 10 miles per hour over the speed limit;

(C) is not a traffic violation under:

(I) Section 41-6a-601;

(II) Section 41-6a-604; or

(III) Section 41-6a-605;

(D) is not a violation by an insured driver who is younger than 21 years of age; and

(E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; [~~or~~]

(iii) a claim for damage that:

(A) results solely from:

(I) wind;

(II) hail;

(III) lightning; or

(IV) an earthquake;

(B) is not preventable by the exercise of reasonable care; and

(C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B)

within a 36-month period; [~~and~~] or

(iv) the owner of the motor vehicle covered by a motor vehicle insurance policy using the motor vehicle in a private vehicle rental, as defined in Section 13-48b-102, unless:

(A) the motor vehicle ~~is enrolled in a usage-based insurance program,~~ owner fails during the renewal process to provide complete and accurate information about the use of a motor vehicle through a private vehicle rental program as defined in ~~Subsection (2)(g); and~~ ~~(B) immediately after cancellation of the policy the insurer offers the insured a new policy with the same coverages and pre-existing rates, but without enrollment in the usage-based insurance program,~~ Section 13-48b-102; or

(B) the motor vehicle owner exceeds the limit established in the insurance policy of the number of motor vehicles the owner is permitted to enroll in a private vehicle rental program as

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defined in Section 13-48b-102; and

(b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:

(i) results solely from:

(A) wind;

(B) hail; or

(C) lightning;

(ii) is not preventable by the exercise of reasonable care; and

(iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.

(6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days prior to the expiration date of the prior policy.

(ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the notice is delivered or sent by first-class mail, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period.

(iii) Return premiums or additional premium charges shall be calculated proportionately on the basis that the old rates apply.

(b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the policyholder is:

(i) a rate increase generally applicable to the class of business to which the policy belongs;

(ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or

(iii) a policy form change made to make the form consistent with Utah law.

(7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days after receipt of a written request by the policyholder.

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(b) A notice under Subsection (2)(c) is not effective unless it contains information about the policyholder's right to make the request.

(8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.

(b) The notice described in Subsection (8)(a) shall be provided to the lienholder by first class mail or, if agreed by the parties, any electronic means of communication.

(c) A lienholder shall provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification under Subsection (8)(a).

(9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless it contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

(10) There is no liability on the part of, and no cause of action against, any insurer, its authorized representatives, agents, employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given by them in complying or enabling the insurer to comply with this section unless actual malice is proved by clear and convincing evidence.

(11) This section does not alter any common law right of contract rescission for material misrepresentation.

(12) If a person is required to pay a premium in accordance with this section:

(a) the person may make the payment using:

(i) the United States Postal Service;

(ii) a delivery service the commissioner describes or designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iii) electronic means; and

(b) the payment is considered to be made:

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(i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on the date the payment is postmarked;

(ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii), on the date the delivery service records or marks the payment as having been received by the delivery service; or

(iii) for a payment that is made using the method described in Subsection (12)(a)(iii), on the date the payment is made electronically.

Section ~~{13}~~18. Section ~~{31A-21-311}~~31A-22-323 is ~~amended to read:~~

~~————~~ **31A-21-311. Group and blanket insurance.**

~~————~~ (1) (a) (i) Except under Subsection (1)(d), an insurer issuing a group insurance policy other than a blanket insurance policy shall, as soon as practicable after the coverage is effective, provide a certificate for each member of the insured group, except that only one certificate need be provided for the members of a family unit.

~~————~~ (ii) The certificate required by this Subsection (1) shall:

~~————~~ (A) provide the exact name of the insurer;

~~————~~ (B) state the state of domicile of the insurer; and

~~————~~ (C) contain a summary of the essential features of the insurance coverage, including:

~~————~~ (I) any rights of conversion to an individual policy;

~~————~~ (H) in the case of group life insurance, any continuation of coverage during total disability; and

~~————~~ (III) in the case of group life insurance, the incontestability provision.

~~————~~ (iii) Upon receiving a written request, the insurer shall inform any insured how the insured may inspect, during normal business hours at a place reasonably convenient to the insured:

~~————~~ (A) a copy of the policy; or

~~————~~ (B) a summary of the policy containing all the details that are relevant to the certificate holder.

~~————~~ (b) The commissioner may by rule impose a requirement similar to Subsection (1)(a) on any class of blanket insurance policies for which the commissioner finds that the group of persons covered is constant enough for that type of action to be practicable and not unreasonably expensive.

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~~—— (c) (i) A certificate shall be provided in a manner reasonably calculated to bring the certificate to the attention of the certificate holder.~~

~~—— (ii) The insurer may deliver or mail a certificate:~~

~~—— (A) directly to the certificate holders; or~~

~~—— (B) in bulk to the policyholder to transmit to certificate holders.~~

~~—— (iii) An affidavit by the insurer that the insurer mailed the certificates in the usual course of business creates a rebuttable presumption that the insurer has mailed the certificate to:~~

~~—— (A) a certificate holder; or~~

~~—— (B) a policyholder as provided in Subsection (1)(c)(ii)(B).~~

~~—— (d) The commissioner may by rule or order prescribe substitutes for delivery or mailing of certificates that are reasonably calculated to inform a certificate holder of the certificate holder's rights, including:~~

~~—— (i) booklets describing the coverage;~~

~~—— (ii) the posting of notices in the place of business; or~~

~~—— (iii) publication in a house organ.~~

~~—— (2) Unless a certificate or an authorized substitute has been made available to the certificate holder when required by this section, an act or omission forbidden to or required of the certificate holder by the certificate after the coverage has become effective as to the certificate holder, other than intentionally causing the loss insured against or failing to make required contributory premium payments, may not affect the insurer's obligations under the insurance contract.~~

~~—— (3) (a) As used in this Subsection (3):~~

~~—— (i) "Authorized driver" means the same as that term is defined in Section 13-48b-102.~~

~~—— (ii) "Private motor vehicle" means the same as that term is defined in Section 13-48b-102.~~

~~—— (iii) "Private vehicle rental program provider" or "program provider" means the same as that term is defined in Section 13-48b-102.~~

~~—— (iv) "Program rental period" or "rental period" means the same as that term is defined in Section 13-48b-102.~~

~~—— (b) A blanket insurance policy that a program provider maintains in accordance with~~

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~~Section 13-48b-301 shall:~~

- ~~— (i) identify the rental network company as the named insured;~~
- ~~— (ii) include a provision that provides coverage, without prior notice to the insurer, for all private motor vehicles during a rental period;~~
- ~~— (iii) include a provision that claims will be adjusted in accordance with Section 31A-26-303; and~~
- ~~— (iv) include a provision that the vehicles' authorized drivers and occupants are included as insureds under the policy to the same extent that the authorized drivers and occupants would be insureds under a private passenger motor vehicle policy.~~

~~Section 14. Section 31A-22-323 is }enacted to read:~~

31A-22-323. Definitions.

As used in ~~{Sections}~~ Section 31A-22-324 ~~{and 31A-22-325}~~:

- (1) ~~"{Commercial vehicle}~~ Authorized driver" means the same as that term is defined in Section ~~{41-1a-102}~~ 13-48b-102.
- (2) "Private motor vehicle" means the same as that term is defined in Section 13-48b-102.
- (3) "Private vehicle rental" means the same as that term is defined in Section 13-48b-102.
- (4) "Private vehicle rental owner" or "owner" means the same as that term is defined in Section 13-48b-102.
- (5) "Private vehicle rental program provider" or "program provider" means the same as that term is defined in Section 13-48b-102.
- (6) "Private vehicle renter" or "renter" means the same as that term is defined in Section 13-48b-102.
- (7) "Private vehicle rental program" or "rental program" means the same as that term is defined in Section 13-48b-102.
- (8) "Program rental period" or "rental period" means the same as that term is defined in Section 13-48b-102.

Section ~~{15}~~ 19. Section **31A-22-324** is enacted to read:

~~{~~ **31A-22-324. Participation in a private vehicle rental.**

- ~~— (1) An insurer that issues a motor vehicle related insurance policy may:~~

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~~_____ (a) refuse coverage to an owner, if the owner, in combination with all individuals residing in the same household as the owner, enrolls in a rental program, or a combination of rental programs, more than four motor vehicles at one time; or~~

~~_____ (b) during a private vehicle rental, exclude any and all coverage that may otherwise be afforded to the owner under the personal motor vehicle liability insurer's policy.~~

~~_____ (2) A motor vehicle required to be insured under Section 41-12a-301 is not a commercial vehicle solely because the motor vehicle's owner makes the motor vehicle available for rent through a rental program, unless:~~

~~_____ (a) the private vehicle rental fails to comply with the requirements of a private vehicle rental as described in Title 13, Chapter 48b, Private Vehicle Rental Act;~~

~~_____ (b) the owner or the program provider knowingly places or allows to be placed into use the private motor vehicle as a commercial vehicle during the private vehicle rental; or~~

~~_____ (c) the owner, in combination with all individuals residing in the same household as the owner, enrolls in a program, or combination of programs, more than four motor vehicles at one time.~~

~~_____ Section 16. Section 31A-22-325 is enacted to read:~~

~~‡ 31A-22-325 **31A-22-324.** Private vehicle ~~{rental liability}.~~~~

~~_____ (1) **Notwithstanding any other provision of law or any provision in an owner's personal motor vehicle liability insurance policy, in the event of a loss or injury that occurs during the rental period or while the}rentals.**~~

~~(1) An insurer that insures a private motor vehicle {is under the control of}during a program {provider,}rental period shall indemnify the program provider {is the owner of the vehicle under any statute that may impose liability upon an owner of a private passenger motor vehicle solely based on ownership.~~

~~_____ (2) A program provider shall retain liability described in Subsection (1) regardless of any inadvertent lapse in the blanket policy under which}to the extent of the program {provider is insured.~~

~~_____ (3) An insurer providing blanket liability insurance to a program provider in accordance with Section 13-48b-301 is liable for a claim in which a dispute exists regarding the person that was in control of the vehicle when the loss occurred giving rise to the claim.~~

~~_____ (4) If it is determined that an}provider's obligation, if any, under the applicable~~

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insurance policy, if the private vehicle rental owner was in control of the private motor vehicle at the time of ~~the loss~~ the loss.

(2) If the insurance maintained by a private vehicle rental owner or by an authorized driver has lapsed or does not provide the required coverage, insurance maintained by a program provider shall:

(a) provide the coverage required by Subsection 13-48b-301(2), beginning with the first dollar of a claim; and

(b) have the duty to defend the claim.

(3) (a) Coverage under an automobile insurance policy maintained by a program provider is not dependent on a personal automobile insurer first denying a claim.

(b) Coverage under a personal automobile insurance policy is not dependent on any other automobile insurer first denying a claim.

(4) An insurer that issues motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim under a private vehicle rental owner's personal motor vehicle liability ~~insurer shall indemnify the program provider's blanket insurer, to the extent of the personal~~ insurance policy.

(5) Nothing in this section or Title 13, Chapter 48b, Private Vehicle Rental Act, invalidates or limits an exclusion contained in a motor vehicle liability ~~insurer's obligation under the applicable~~ insurance policy, including any insurance policy.

~~————~~ (5) Subject to the provisions of Subsections (3) and (4), if an owner or the owner's ~~personal~~ in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

(6) A motor vehicle insurer ~~is named as the defendant in a civil action~~ that defends or indemnifies a claim against a private motor vehicle that is excluded under the terms of the insurer's policy shall have the right to seek contribution against the insurer of the program provider if the claim is:

(a) made against the private vehicle rental owner or the authorized driver for a loss or injury that occurs during the ~~rental period, the program provider's blanket liability insurance insurer under Section 13-48b-301 has the duty to defend and indemnify the owner and owner's personal motor vehicle liability insurer.~~

~~————~~ Section 17} program rental period; and

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(b) excluded under the terms of the insurer's policy.

Section 20. Section **41-1a-214** is amended to read:

41-1a-214. Registration card to be exhibited.

(1) For the convenience of a peace officer or any officer or employee of the division, the owner or operator of a vehicle is encouraged to carry the registration card in the vehicle for which the registration card was issued and display the registration card upon request.

(2) For a vehicle owned by a rental company, as defined in Section 31A-22-311, a person driving or in control of the vehicle may display the vehicle's rental agreement, as defined in Section 31A-22-311, in place of a registration card.

(3) For a vehicle being used in a private vehicle rental, as defined in Section 13-48b-102, a person driving or in control of the vehicle may display the vehicle's rental agreement, as defined in Section 13-48b-102, in place of a registration card.

Section ~~41-12a-303.1~~21. Section **41-12a-303.2** is amended to read:

41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) (a) (i) A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(iii) A person operating a vehicle that is owned by a rental company, as defined in Section 31A-22-311, may comply with Subsection (2)(a)(i) by having in the person's

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immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section 31A-22-311.

(iv) A person operating a vehicle in a private vehicle rental, as defined in Section 13-48b-102, may comply with Subsection (2)(a)(i) by having in the person's immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section 13-48b-102.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

(C) binder notice;

(D) renewal notice; or

(E) card issued by an insurance company as evidence of insurance;

(ii) a certificate of insurance issued under Section 41-12a-402;

(iii) a certified copy of a surety bond issued under Section 41-12a-405;

(iv) a certificate of the state treasurer issued under Section 41-12a-406;

(v) a certificate of self-funded coverage issued under Section 41-12a-407; or

(vi) information that the vehicle or driver is insured from the Uninsured Motorist

Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(c) A card issued by an insurance company as evidence of owner's or operator's security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or operator's address on the card.

(d) (i) A person may provide to a peace officer evidence of owner's or operator's security described in this Subsection (2) in:

(A) a hard copy format; or

(B) an electronic format using a mobile electronic device.

(ii) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

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(iii) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

(e) (i) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

(ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

(3) It is an affirmative defense to a charge or in an administrative action under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4) (a) The following are considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804:

(i) evidence defined in Subsection (2)(b);

(ii) a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified; or

(iii) a written statement from an insurance producer or company, or provision in an insurance policy, indicating that the policy provides coverage for a newly purchased car and the coverage extended to the date specified.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection (4)(a) and a copy of the citation to be electronically submitted or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

(5) (a) A person who is convicted of violating Subsection (2)(a)(i):

(i) is guilty of an infraction for a first offense and subject to a fine of not less than \$400; and

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(ii) is guilty of a class C misdemeanor for each offense subsequent to the first offense that is committed within three years after the day on which the person commits the first offense and subject to a fine of not less than \$1,000.

(b) A court may waive up to \$300 of a fine charged under Subsection (5)(a) if the person demonstrates that the owner's or operator's security required under Section 41-12a-301 was obtained after the violation but before sentencing.

(6) Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

Section 22. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3%

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on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for:

(I) rentals of motor vehicles facilitated by a private vehicle rental program provider, as that term is defined in Section 13-48b-102, in which case the imposed tax may not exceed 1.9%, and

(II) leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for:

(I) rentals of motor vehicles facilitated by a private vehicle rental program provider, as that term is defined in Section 13-48b-102, in which case the imposed tax may not exceed 2.5%, and

(II) leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

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(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,

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Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

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(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection

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(9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 23. Section **59-12-1201** is amended to read:

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59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in [Subsection] Subsections (1)(b) and (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) If a private vehicle rental program, as that term is defined in Section 13-48b-102, facilitates a short-term rental of a motor vehicle not exceeding 30 days, there is imposed a tax of 1.6% on the short-term rental.

~~(b)~~ (c) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1,

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Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.